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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/505,417

08/24/2004

Hiroshi Kaneta

8017-1141

7384

466

7590

11/25/2009

YOUNG & THOMPSON

209 Madison Street

Suite 500

Alexandria, VA 22314

EXAMINER

LEE, CYNTHIA K

ART UNIT

PAPER NUMBER

1795

NOTIFICATION DATE

DELIVERY MODE

11/25/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/505,417	<b>Applicant(s)</b> KANETA ET AL.	
	<b>Examiner</b> CYNTHIA LEE	<b>Art Unit</b> 1795	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-8 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-8 and 11-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **Response to Amendment**

This Office Action is responsive to Arguments filed on 8/3/2009. Claim 22 has been added. Claims 2, 3, 5-8, and 11-22 are pending. Applicant's arguments have been fully considered. Claims 2, 3, 5-8, and 11-22 are finally rejected for reasons stated herein below.

### ***Claims Analysis***

The recitation "secondary" in the limitation "secondary battery" has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. See MPEP 2111.02.

It is noted a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). During examination, statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the recited purpose or intended use results in a structural difference.

The limitation "for charging and discharging" has been considered but was not given patentable weight because it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex Parte Masham*, 2 USPQ2d 1647 (1987). See MPEP 2114.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 5, 6, 8, and 11-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aamodt (US 2003/0194604).

Refer to fig. 1. Aamodt discloses a flat battery comprising an electric-power generating element provided with positive and negative electrode collectors, each of said collectors having a respective uncoated area that is free of active material;

a third terminal that is attached directly to said uncoated area of one of said positive and negative electrode collectors and that does not directly contact either of said positive and negative electrode terminals,

wherein said third terminal and a respective one of said positive and negative electrode terminals are attached to said uncoated area of said one collector of said positive and negative electrode collectors at different positions in order to avoid an

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influence on said third terminal of heat from the respective one of said positive and negative electrode terminals, and

wherein said third terminal has a same electric potential as said respective one of said positive and negative electrode terminals and said third terminal is attached electrically conductively to said uncoated area of said one of said positive and negative electrode collectors.

Aamodt discloses a negative electrode terminal attached to said uncoated area of the negative electrode collector, but does not disclose the positive electrode terminal attached to said uncoated area of the negative electrode collector (Applicant's claim 21). However, it would have been obvious to one of ordinary skill in the art at the time the invention was made configure the positive terminal similarly to the negative terminal attached to the uncoated area of the current collector for the benefit of directly attaching the terminal to the current collector.

Regarding claims 2 and 3, it would have been obvious to one of ordinary skill in the art at the time the invention was made the third terminal extending in the different direction from the positive or negative terminal depending on the location of the electrical connection on the power device.

Regarding claims 5, 11, 12, 19, and 20, Aamodt discloses that the battery can be used in implantable medical devices [0024]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the third terminal to a control circuit within an implantable medical device for the benefit of monitoring the amount of power delivered to the device.

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Aamodt discloses a battery but does not disclose a plurality of said battery connected serially to each other (applicant's claims 8 and 20). However, the Examiner notes that it is common practice in the art to connect a plurality of batteries either in series or parallel to increase the voltage or the current depending on the power requirements of the intended application of the battery. It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the battery of Takatani in series or parallel for the benefit of meeting the power requirements of the intended application

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aamodt (US 2003/0194604) as applied to claim 21, in view of Yamashita (US 6287720).

Aamodt teaches all the limitations of claim 21 and are incorporated herein. Aamodt discloses a stainless steel casing [0035], but does not disclose a laminated film casing. Yamashita teaches a battery with a casing made of various materials, such as a laminate casing, among others (10:25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the casing of laminate casing for the benefit of a light weight battery.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Aamodt (US 2003/0194604) as applied to claim 20, in view of Higashijima (US 5886502).

Aamodt does not disclose that a control circuit is a cell-balancer circuit. However, Higashijima discloses a cell balancer circuit connected to cells connected in series to detect difference in voltage among the cells. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a cell balancer circuit to the cell terminals of Aamodt for the benefit of detecting the voltage of the cells and achieving a balance of voltages among the cells, as taught by Higashijima (abstract, 1:5-10, 2:40-45).

### ***Response to Arguments***

Applicant's arguments filed 8/3/2009 have been fully considered but they are not persuasive.

*Applicant argues that the batteries Aamodt are for an implantable medical device. It would not be feasible to connect a plurality of these batteries together and retain the intended purpose of the implantable battery in Aamodt et al. The reference states (paragraph 0002) that the battery must be able to supply energy from a minimum packaged volume, and thus combining a plurality of these batteries would defeat this requirement.*

The Examiner respectfully disagrees. It is noted that the batteries of Aamodt are not solely limited to implantable medical devices. As noted above, is common practice in the art to connect a plurality of batteries either in series or parallel to increase the voltage or the current depending on the power requirements of the intended application

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of the battery. It is the Examiner's position that serially connecting the battery of Aamodt merely would have been an obvious modification to the battery of Aamodt.

Applicant's arguments with respect to claim 22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Lee whose telephone number is 571-272-8699. The examiner can normally be reached on Monday-Friday 8:30am-5pm.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cynthia Lee/  
Examiner, Art Unit 1795

/PATRICK RYAN/  
Supervisory Patent Examiner, Art  
Unit 1795